IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 12TH FEBRUARY 2007 / 23RD MAGHA 1928

Crl.MC.No. 319 of 2007()

C.R. NO.48/2004 OF VADAKKANCHERY EXCISE RANGE

PETITIONER: ACCUSED:

SURA @ SURENDRAN, AGED 30 YEARS,
S/O. KESAVAN, CHEMBATH HOUSE, KIZHAKKEMURI DESOM,
KADANGODE VILLAGE, THALAPPILLY TALUK,THRISSUR DIST

BY ADV. SRI.SAIJO HASSAN

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR, SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.319 of 2007

Dated this the 12th day of February 2007

O R D E R

The petitioner faces allegations under the Kerala Abkari Act. Investigation is complete. Cognizance has been taken by the learned Magistrate. The case stands registered as a committal proceedings (C.P.No.44/2006 before the J.F.C.M, Vadakkancheri).

2. A warrant of arrest is pending against the petitioner. The petitioner has come to this court, in these circumstances, with the prayer that directions under Section 482 Cr.P.C may be issued in his favour calling upon the learned Magistrate to release the petitioner on bail when he appears and applies for bail before the learned Magistrate.

3. It is for the petitioner to appear before the learned Magistrate and seek regular bail. I find absolutely no reason to assume that the learned Magistrate would not consider the application for regular bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. The mere fact that the offence is triable

exclusively by a Court of Sessions will not absolve the learned Magistrate of his duty to consider the application for bail on merits.

4. In the result, this Crl.M.C is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself unless there are compelling reasons.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006